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BOOK REVIEWS

MEN AND BOOKS FAMOUS IN THE LAW. By Frederick C. Hicks. Rochester: The Lawyers' Coöperative Publishing Co. 1921. Pp. 259.

Professor Hicks has done for a few great lawyers and a few great books what it is hoped he may do for many more lawyers and many more books. Out of his full and intimate knowledge of the literature of our profession he has gathered and presented to us in most entertaining fashion the human as well as the intellectual and professional characteristics of a full half dozen men, each of whom holds a somewhat unique place in the development of Anglo-Saxon law.

An introduction by Dean Harlan F. Stone, of Columbia, comments on the general topic of legal education and contrasts the methods of today with those of its earlier history. Referring to the case method of instruction, Dean Stone says: "In such a scheme of things there is small scope for the authoritative pronouncements of any individual, however penetrating his intellect and however gifted he may be in his powers of expression. It rejects the pedantry of Coke, it sets little store by the artificial reasoning of Blackstone, and it prefers the opinions of Kent the judge and the chancellor to the mellifluous passages of Kent the commentator." He goes on to say that in this modern atmosphere the figures and the books of the great lawyers discussed by Professor Hicks are becoming "shadowy and indistinct" and that this little book of Professor Hicks "challenges the attention with the query whether we have done well to let them become so."

The book opens with a stimulating chapter on the "Human Appeal of Law Books," in which the author touches upon their character as literature, as historical and biographical material, and their interest from the point of view of how they came to be—their story. The following chapter, "Cowell's Interpreter," gives us the story of a man and a book of whom and of which many a lawyer of this day never heard, and yet it is a most fascinating tale. That a Professor of Law, more than five hundred years ago, should conceive that he might advantage the profession and the state by making a dictionary of the law, and doing so should set the kingdom of England on fire, should claim the attention of the King, of the House of Lords, and of the House of Commons for more than a month, should be investigated by a committee of fifty of the House of Lords, which included two Archbishops, thirteen Bishops, thirteen Earls, a Viscount, twenty-one Lords and the Lords Chancellor, Treasurer, Privy Seal, Admiral and Chamberlain, and by a committee of the House of Commons consisting of the whole Privy Council, the Attorney and Solicitor General, the Recorder and eighteen other members; that he should call down the wrath of Lord Coke and the proclamation of the King suppressing the book—that a poor Professor of Civil Law could write a bit of a law dictionary of two hundred and ninety-two leaves, and incite

all this, is to suggest that indeed here is the material for the interesting tale Professor Hicks has given us in his second chapter.

Nor will our interest lag through the two following chapters given over to "Lord Coke and His Reports and Institutes," and to "Littleton and Coke upon Littleton." Lord Coke's two great legal works "might well have been the product of a lifetime largely devoted to scholarship," and yet they were written by one who, called to the bar in 1578, found time to discharge his duties as Reader in Lyon's Inn, Recorder of Coventry and of Norwich, Benchers of Inner Temple, Recorder of London, Solicitor General, Reader to Inner Temple, Member from Norfolk, Speaker of the House of Commons, Attorney General, Chief Justice of the Common Pleas, and later of the King's Bench, Member of the Privy Council, High Steward of Cambridge University, and consecutively as Member from Coventry, Norfolk and Buckingham, a career extending from 1578 to 1634. During this period he also found time to conduct a most bitter controversy with Lord Bacon, then Attorney General, to get himself suspended from the Chief Justiceship, and finally to be removed from office and spend a term in the tower. Indeed, it was dangerous business, this writing of law books in that early day.

We are led to wonder sometimes in these latter days whether law books are written as pigs are sold, by the pound, or as the hod is carried, by the day. To write a law book to help one's own son to comprehend one of the most difficult of all law subjects, is to write it under conditions calling upon the best that is in one. These conditions produced a legal classic which has remained such through more than six hundred years, Littleton's "New Tenures," or in the Law French in which it was first printed, "Tenores Novelli." When Coke incorporated this into his "Institutes" with his commentaries upon it, "it was a virtual piling of Pelion on Ossa, enabling the law student to scale the heights of legal learning," or, as Wambaugh's phrase is, the result is the "most conspicuous example of a masterpiece upon a masterpiece—much as if the plays of Shakespeare were entwined about the Canterbury Tales." Out of these facts, again, has Professor Hicks woven a story of most fascinatingly dramatic interest.

In the chapter on Sir William Blackstone and his Commentaries we get an account of the preparation of the book, its author's methods of work and its reception by the profession. We find our old sulphuric friend, Jeremy Bentham, pitching into it, sometimes with a bludgeon and sometimes with a stiletto; Professor Amos calling it the "charnel house of dead law"; the great Kent saying of the third volume, "it requires but ordinary talents and industry to compile such a volume"; and President Jefferson saying of the Commentaries, "they have been perverted more than all others to the degeneracy of legal science." But despite such attacks our author is led to say that "few law books have been so generally received with approbation by succeeding generations." And even our iconoclastic friend Bentham was compelled to say of Blackstone that "of all institutional writers he was the first to teach jurisprudence to speak the language of the scholar and the gentleman," but he must add that this quality made the Commentaries the more dangerous.

But the editor reminds me that his plans for this number of the *REVIEW* involve the publishing of some other good material and this must be cut off. The succeeding chapters deal in the same interesting way with three of our own great law writers of the earlier period, Professor James Kent, Edward Livingston, and Henry Wheaton. I ought to be permitted to tell something of what is in these later chapters, but am not. It's good stuff.

The book is supplemented with an Appendix of bibliographical suggestions, not less valuable than the matter it supplements.

There may be as delightful reading as "Men and Books Famous in the Law," which law students or the lawyer with a scholarly interest in his profession may pick up for an odd hour or two, but they are far to seek. I don't know Professor Hicks. I don't know whether he smokes a pipe,—an awfully bad habit,—but if one reads his book he'll fancy he's by the professor's fireside with the professor in his house coat and slippers, smoking his pipe and telling his story.

V. H. LANE.

CASES ON THE LAW OF CONTRACTS. By George P. Costigan, Jr. Chicago: Callaghan & Co. 1921. Pp. xxviii, 1489.

CASES ON THE LAW OF CONTRACTS. By Arthur L. Corbin. St. Paul: West Publishing Co. 1921. Pp. xxiv, 1514.

It was to be anticipated that such able and thorough workers in the field as Professors Costigan and Corbin would, sooner or later, give us the benefit of the maturity of thought resulting from their many years of experience in teaching the law of Contracts. It is gratifying to note that both books evidence a high order of scholarship. Of course, no book on this subject could be expected to fail to show traces of the influence exerted by the epoch-making collections of Langdell and Williston, and the authors do not pretend that they have produced anything revolutionary. The topics presented and the relative proportions of space devoted to each in the two books are in the main the same, and in this respect they do not differ radically from the earlier collections. The points of departure consist principally in the choice and topical arrangement of the materials, in the order of development of the subject matter, and in the point of view presented. Approximately two-thirds to three-fourths of the cases do not appear in the earlier collections.

Professor Costigan has avowedly emphasized the historical side of the subject, although it must not be supposed that the modern developments have been neglected. At least two-thirds of the cases are American. At appropriate places there have been inserted excerpts from text-writers and from writers of Law Review articles on historical points. These have been put in, so the author tells us, not primarily for classroom use, but rather with the hope that the student will gain enough from them to make him curious to know more about the history of the subject. Only the barest outline of topics is presented. Sub-headings have been entirely omitted except in case of the topic Performance, and here only a very few have been inserted.